

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 25, 2007

No. 06-31118
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

BERNIE CHRISTOPHER RAMIREZ

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:05-CR-20136-2

Before JOLLY, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Bernie Christopher Ramirez appeals his 100-month sentence following a guilty plea to distribution of cocaine base. Ramirez argues that his sentence, which is within the applicable sentencing guideline range, is inherently unreasonable under *Booker v. United States*, 543 U.S. 220 (2005), due to the disparate sentences imposed under the United States Sentencing Guidelines for offenses involving cocaine base and powder cocaine. Ramirez concedes that his argument is foreclosed by this court's precedent. See

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

United States v. Leatch, 482 F.3d 790, 791-92 (5th Cir. 2007), petition for cert. filed (June 21, 2007) (No. 06-12046); United States v. Alonzo, 435 F.3d 551, 554-55 (5th Cir. 2006). Although Ramirez does not otherwise challenge the advisory Guidelines applicable to his sentence, he argues that his sentence is not entitled to a presumption of reasonableness. This issue is also foreclosed as the Supreme Court has affirmed that a sentence within a properly calculated Guideline range is presumptively reasonable. United States v. Rita, 127 S. Ct. 2456, 2462-68 (2007).

AFFIRMED.